

Town of Wellesley – Board of Selectmen  
Meeting Date: **August 1, 2011**

Members Present: Barbara Searle, Terri Tsagaris, Ellen Gibbs, Katherine Babson  
(Owen Dugan was absent)

Also present: Hans Larsen, Christopher Ketchen, Terry Connolly and Al Robinson

Warrants approved: 2011-058 (\$1,002.15); 2012-002 (\$1,708,979.99); 2012-003  
(\$7,099,380.63)

1. **Citizen Speak**

None.

2. **Executive Director's Update**

- The Board voted (4-0) to approve the minutes of the July 18, 2011 meeting of the Board of Selectmen.
- Mr. Larsen reported that the final state budget approved by the legislature and signed by the Governor provided slightly better local aid appropriations than those projected by Town staff. He further commented on new legislation relating to health insurance for municipal employees.
- Mr. Larsen and Mr. Robinson described a sidewalk and drainage easement and license agreement proposal from Gravestar, the owners of the Whole Foods site adjacent to Town owned land. The Board voted (4-0) to accept the Sidewalk and Drainage Easements granted by Wellesley Plaza LLC dated July 12, 2011; and further, to authorize the chair of the Board of Selectmen to execute the License Agreement with Wellesley Plaza LLC pertaining to the construction of improvements on Town-owned property adjacent to Wellesley Plaza.
- Mr. Ketchen presented a request on behalf of the Department of Public Works for approval of a waiver for Ann Collins to be employed by two departments of the Town (i.e. the Department of Public Works and the Permanent Building Committee). The Board voted (4-0) to approve the exemption requested by Michael Pakstis on behalf of Ann Collins in accordance with Chapter 268A, Section 20(b) of the General Laws; and further to authorize the chair of the Board of Selectmen to sign the Disclosure of Financial Interest form as prescribed by the Commonwealth.
- Mr. Larsen notified the Board of a vacancy on the Historical Commission created by the resignation of Erin Hester. Mr. Larsen requested the appointment of Kathryn Venne to the Historical Commission on behalf of Commission chair, David Wright. The Board voted to appoint Kathryn F. Venne of 7 Fuller Brook Road as a member of the Wellesley Historical Commission for a term to expire June 30, 2013.

- Mr. Larsen read a proclamation pertaining to the World of Wellesley. The Board voted to approve the proclamation regarding the World of Wellesley Diversity Celebration as prepared and read by the Executive Director.
- Mr. Larsen informed the Board of actions taken by Moody's Investors Services to place the Town of Wellesley on notice of potential downgrade.

### 3. **Housing Development Corporation**

Mr. Timothy Barrett appeared before the Board and was recognized as an applicant to fill a vacant position on the Housing Development Corporation. The Board voted to appoint Timothy Barrett of 21 Shadow Lane as a member of the Wellesley Housing Development Corporation for a term to expire June 30, 2014.

### 4. **Comcast Right of Way Request**

Mr. Rich Ferrucci came forward to describe the conduit work his firm is planning to do on behalf of Comcast of New England, Inc. After a brief discussion, the matter was tabled to later in the meeting in order to bring the most current information before the Board.

### 5. **Board of Selectmen Annual Report Submission**

Mr. Larsen stated that Mr. Ketchen would be sending a draft of the Board's Annual Town Report submission. He requested that the Selectmen review the draft and provide comment to Mr. Ketchen in the next two weeks.

### 6. **Cable Access Corporation Proposal Regarding Future Use of Former MLP Substation, Municipal Way**

Mr. James Joyce and Mr. Dennis Viechnicki came before the Board. Discussion ensued regarding the possible renovation of the MLP Substation for new Cable Access Corporation headquarters and production studio. Mr. Joyce and Mr. Viechnicki spoke about the inadequacy of the current facility as well as the anticipated lack of capital funding available through the cable companies.

### 4. **Comcast Right of Way Request**

Returning to the earlier, tabled item on the Board's agenda, Mr. Connolly presented the Selectmen with a revised request and motion. The Board voted (4-0) to approve the Petition for Conduit Location submitted on July 28, 2011, and amended July 29, 2011 to include submitted engineered drawings and traffic management plan as requested by the Town Engineering Department, by Comcast of New England, Inc. to place and maintain underground conduit in the vicinity of 27 Washington Street.

7. **Draft Regulations Regarding Remote Participation in a Public Meeting**

Ms. Tsagaris reported that she received comments from two boards (Municipal Light Board deferred to the Selectmen; and the Natural Resources Commission). Ms. Tsagaris and Mr. Robinson confirmed that if the Selectmen voted to opt-in to the new regulations, they do so on behalf of the entire Town. The Board asked Ms. Tsagaris and Mr. Robinson to draft some questions and comments for the Attorney General's office.

**Project and Other Updates**

- Wellesley High School – Ms. Babson stated that an update would be made in the Fall regarding the “Wellesley Celebrates Education” schedule of events. She also gave an update on the construction of the new high school building.
- Fuller Brook Path – Ms. Babson reported that the demonstration sites have been chosen with the hope that installation of the various path options would occur in the Fall. A request for proposal process has begun with the assumption that a proposal will be ready for a Special Town Meeting.
- Public Transportation Study – Ms. Gibbs noted the Working Group will complete the final report by August 8.
- Sustainability – Mr. Ketchen encouraged residents to visit the Town's website and consider signing up for the Municipal Light Plant's Voluntary Renewable Program.
- Wellesley Square Initiative – Ms. Searle described the initiative as a response to recent vacancies. To understand the issues, a group has been seeking information from peer communities, interviewing landlords and tenants and reviewing various traffic/parking options.

5. **CV License – Justine's, 978 Worcester Street**

Ms. Babson called the public hearing to order at 8:30 p.m. Ms. Babson gave an outline of how the public hearing would proceed. Mr. Robinson spoke regarding the statutory standard for approving or denying a common victualler's license. He confirmed that the standard is for the Board to take into consideration the common good, traffic, parking, fire or other public safety issues.

The license applicant, Ms. Maryellen Behrend, came before the Board accompanied by her representatives Mr. Laurence Shind, attorney with Kertzman & Weil, Mr. Jeffery Dirk, traffic engineer and Mr. Clark Brewer, project architect. Mr. Shind made a presentation regarding changes made between previous applications and the current application before the Selectmen.

Ms. Babson asked Kien Ho from BETA Engineering to come forward and comment on traffic and parking issues associated with the application, which he did. Ms. Babson also asked Deputy Chief of Police William Brooks to come forward to comment on public safety issues, which he did. Mr. Larsen further reviewed the site plan with the Selectmen.

Ms. Tsagaris and Ms. Babson raised a number of questions regarding parking spaces as it relates to peak demand. Ms. Tsagaris further expressed concern that the current plan had not been reviewed by the Zoning Board of Appeals.

Mr. Dean Behrend, the property owner, came forward to address residential parking needs on the site. Residents would be assigned specific parking spaces under the building while a second vehicle (if any) would be required to have a sticker that would allow for parking elsewhere on the site. Ms. Babson asked the applicant about who would be responsible for enforcing the parking arrangement on site. Mr. Shind stated that the restaurant owner is responsible for enforcing the parking practices of its employees. Ms. Babson pointed out that enforcement of parking on the site goes beyond the employees of the restaurant, but extends to the residential building as well as employees and patrons of other businesses on the site. She concluded that the owner of the property was ultimately responsible for enforcing the parking arrangements.

Ms. Babson requested that Mr. Larsen place into the record reports regarding violations of Town regulations according to other Town departments. Mr. Larsen reported on the following violations committed by Mr. Behrend and his representatives on the site:

- Wetlands violations according to former Wetlands Administrator Adam Bossi
- Building code violations according to Building Inspector Michael Grant
- Zoning violations according to Assistant Planning Director Michael Zehner
- Problems with water regulations according to Town Engineer Stephen Fader

Ms. Babson questioned the property owner's ability to enforce parking conditions based on a track record of violations regarding the site at 978 Worcester Street.

Ms. Babson invited questions from Board members regarding the amended common victualler and liquor license applications. There were none.

Ms. Babson invited comments from the public. There were none.

Ms. Babson invited final comments from the applicant. Mr. Shind offered to eliminate space #15, leaving a cushion of one space on the site. He further noted that the CV application needed to agree with the revised plan as indicated on the liquor license application.

Mr. Behrend disputed the circumstances surrounding a number of violations reported by Town departments.

At 10:32 p.m., Ms. Babson closed the evidentiary portion of the hearing.

Ms. Babson invited comment from members of the Board.

Ms. Tsagaris stated her concerns about the density and circulation of the site, as well as access to the site.

Ms. Gibbs stated her concern that there is no construction mitigation plan for the residential building and that the Board does not have the benefit of knowing the details of that information. She further expressed concern about her lack of understanding of the off-site parking plan agreement with property owners in Natick.

Ms. Searle expressed concern about the parking plan and echoed comments made earlier by Ms. Gibbs regarding the lack of a construction mitigation plan.

Ms. Babson summarized the discussion regarding site density, parking issues and dependency upon active management of the site.

The Board, having heard the applicant, 97, LLC in full, voted (4-0) to deny the Common Victualler license based on the findings discussed and the Board's conclusion that the public good does not require it; and the liquor license is denied based on the fact that there is no common victualler licensed and on the other findings discussed. The Executive Director is requested to draft an appropriate written decision and present it to us for review and discussion and to put onto final form for our signatures at the first Board meeting in September, which is September 6<sup>th</sup>.

At 10:44 p.m., the meeting was adjourned.